

**DECISION**

24187  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-211153**DATE:** April 12, 1983**MATTER OF:** Media Associates Inc.**DIGEST:**

1. Protest filed 1 month after protester received notice of award is untimely because although agency did not respond to protest filed with it, subsequent notice of award was initial adverse agency action and protest was not filed within 10 days of such notice as required by GAO Bid Protest Procedures.
2. Delay in filing a protest because protester was unable to secure legal counsel is not a basis to extend the filing time for a protest.

Media Associates Inc. protests the award of a contract for videotape duplication services to TeleColor Productions, Inc. under invitation for bids (IFB) No. 00-83-B-18 issued by the U.S. Department of Agriculture. Media contends that the awardee's bid on Item 02 of the IFB was defective because it proposed a price different from the price specified for the same item in its Federal Supply Schedule (FSS) contract. We dismiss the protest as untimely.

The solicitation was issued on January 17, 1983 and bids were opened on February 4. TeleColor was the apparent low bidder; Media was second low. By letter dated February 4 to the contracting officer, Media protested any award to TeleColor on the ground that TeleColor's bid on Item 02 of the solicitation was less than its listed FSS price for this item. Media states that the agency never directly responded to its protest, but by letter received by the protester on February 17, Agriculture notified it that award had been made to TeleColor. Media's protest to this Office was filed on March 17, 1983.

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Under our Bid Protest Procedures, a protester has 10 working days to file a protest with our Office after it knows of initial adverse agency action regarding a protest it has filed with the contracting agency. 4 C.F.R. § 21.2(a) (1983). Adverse agency action is any action or inaction which is prejudicial to the position taken in a protest filed with an agency. 4 C.F.R. § 21.0(b). Even where an agency fails to directly respond to a protest filed with it, notice of an award, the possibility of which has been protested to a contracting agency, constitutes initial adverse agency action. International Logistics Group, Ltd., B-202819, May 19, 1981, 81-1 CPD 386. Therefore, Media's protest, filed with our Office 1 month after it received notice of award to TeleColor is clearly untimely.

Media states that it was delayed in filing its protest because of its inability to secure legal counsel. Consultation with counsel or the inability to do so is not a valid basis to extend the filing time for a protest. See Medical Devices of Fall River, Inc.--Reconsideration, B-207276.3, December 21, 1982, 82-2 CPD 558.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel